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Honorable Ronald B. Leighton

12 IN THE UNITED STATES DISTRICT COURT
13 FOR THE WESTERN DISTRICT OF WASHINGTON
14 AT TACOMA

15 SHARON ALLEN; THE WASHINGTON
16 PROTECTION AND ADVOCACY SYSTEM,
17 INC., a Washington corporation; and THE ARC
18 OF CLARK COUNTY,

20 Plaintiffs,
21
22 v.
23

WESTERN STATE HOSPITAL and ANDREW
PHILLIPS, in his capacity as the Chief Executive
Officer of Western State Hospital; et al.,

Defendants.

No. C99-5018RJB

JOINT ORDER PRELIMINARILY
APPROVING SETTLEMENT, DIRECTING
NOTICE TO CLASS MEMBERS, AND
SCHEDULING FAIRNESS HEARING

This matter came before the Court pursuant to a joint motion filed by all parties asking that the Court preliminarily approve a proposed settlement pursuant to Fed. R. Civ. P. 23(3) and show its approval by entry of the Proposed Order and Settlement Agreement filed as an attachment to this motion. The parties are asking the Court to tentatively approve the settlement, including its attorneys' fees provisions, subject to further review once class members are given

JOINT (PROPOSED) ORDER PERLIMINARILY APPROVING
SETTLEMENT, DIRECTING NOTICE TO CLASS MEMBERS,
AND SCHEDULING FAIRNESS HEARING - 1

No. C99-5018

Washington Protection & Advocacy System

315 5TH Avenue South, Suite 850

Seattle, Washington 98104

(206) 324-1521 · Fax: (206) 957-0729

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3 notice and an opportunity to file objections. They are also asking that the Court approve notice
4 of the proposed settlement, direct how this notice will be given to class members, schedule a
5 fairness hearing, and establish a briefing schedule on a motion for final approval of the proposed
6 settlement.
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10 Based on the argument of counsel and evidence presented, the Court tentatively finds
11 pursuant to Rule 23(e) that the proposed settlement is fair, reasonable and adequate. There is no
12 evidence at this stage of the proceedings of fraud, collusion or overreaching by the parties or that
13 the rights of absent class members were disregarded. The Court also finds that the proposed
14 notice of the settlement is adequate to inform class members of the terms of the settlement,
15 including its provisions concerning attorneys' fees, and sufficiently explains how they might file
16 objections or participate in the fairness hearing.
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Based on these findings, IT IS HEREBY ORDERED THAT:

1. The Joint Motion is granted.
2. The proposed settlement, including its attorneys' fees provision, is preliminarily approved, subject to further review once class members are given notice and an opportunity to file objections.
3. The notice to class members regarding settlement of this matter, attached as Exhibit 2 to the Joint Motion is approved.

JOINT (PROPOSED) ORDER PERLIMINARILY APPROVING
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AND SCHEDULING FAIRNESS HEARING - 2
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3 4. The parties shall provide the notice described in paragraph 3 above to members of
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5 the class as follows:

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7 a) The Defendant shall at its own expense mail a copy of the notice to all
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9 settlement class members or their legal guardians and, where applicable, to their significant
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11 others consistent with the Division of Developmental Disabilities (DDD) Policy 5.02, Necessary
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13 Supplemental Accommodation (NSA);

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15 b) The Defendant shall post the notice at each DDD regional office and
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17 outstation where it shall be clearly visible to the public, class members, their guardians, DDD
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19 staff and other interested parties;

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21 c) The Defendant shall also provide a copy of the notice at its own expense
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23 to any person requesting it;

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25 d) The Defendant shall, upon request of a class member or a class member's
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27 legal guardian or significant other, provide notice to the class member in his or her primary
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29 language if the primary language is English, Spanish, Chinese, Vietnamese, Cambodian,
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31 Laotian, Russian or Somalia. Defendant shall provide notices in large print when required by
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33 DDD Policy 5.05, Limited English Proficiency (LEP) Clients. Defendant will also make
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35 reasonable supplemental accommodations for class members or their legal guardians who have
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37 an impairment or other problems that prevent them from understanding or responding to the

JOINT (PROPOSED) ORDER PERLIMINARILY APPROVING
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AND SCHEDULING FAIRNESS HEARING - 3

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3 notice, consistent with applicable DSHS regulations and DDD Policy 5.02, Necessary
4 Supplemental Accommodation (NSA).

5. Plaintiffs' counsel shall schedule meetings throughout Western Washington for
6 any class members who wish to attend, where class counsel will be available to answer questions
7 regarding the terms of the settlement in this case. Plaintiffs' counsel shall provide summaries of
8 the settlement to class members who request such information. Costs associated with these
9 activities shall be the responsibility of Plaintiffs.

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17 6. Plaintiffs' counsel shall not be required to file a separate motion for attorneys'
18 fees under Rule 23(h) or to give additional notice under Rule 23(h)(2) to class members of any
19 motion for attorneys' fees. The notice being sent to class members adequately advises them of
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21 the attorneys' fee provisions in the proposed Settlement Agreement and their opportunity to
22 object to the settlement as a whole.

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7. Any class members wishing to file comments regarding the Settlement
Agreement may do so by filing such objections with the Court no later than March 26, 2007 at
4:30 p.m. Information related to this process is provided in the Notice.

8. A Fairness Hearing will be held on April 6, 2007 at 1:30 p.m. Information related
to the Fairness Hearing is provided in the Notice.

JOINT (PROPOSED) ORDER PERLIMINARILY APPROVING
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3 9. The parties shall file a Joint Motion for Final Approval of the Settlement, together
4 with any supporting memorandum and supporting declarations or other documentation with the
5 Court no later than on April 3, 2007.
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9 DATED this 27th day of February, 2007.
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RONALD B. LEIGHTON
UNITED STATES DISTRICT JUDGE

Presented by:

/s/Deborah A. Dorfman

Deborah A. Dorfman, WSBA #23823
Washington Protection & Advocacy System

/s/Rob Denton

Rob Denton
Disability Law Center

Attorney for Plaintiffs

ROB MCKENNA
Attorney General

/s/Morgan Pate

Morgan Pate, WSBA #32269
Ed Dee, WSBA #15964
Assistant Attorneys General

Attorneys for Defendants

JOINT (PROPOSED) ORDER PERLIMINARILY APPROVING
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AND SCHEDULING FAIRNESS HEARING - 5

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